

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
October 31, 2005

**D047366 DeAnda v. Superior Court of San Diego County/Oyler**

The petition is denied.

**D046164 In re Alissa B. et al., Juveniles**

The order is affirmed. Irion, J.; We Concur: McConnell, P.J., Aaron, J.

**D047197 Martinez v. Superior Court of San Diego County/People**

The petition is denied.

**D045103 People v. Patterson**

The judgment of the trial court is reversed. Aaron, J.; I concur: Huffman, J., I respectfully dissent: Benke, Acting, P.J.

**D047204 Fish Market Restaurants v. Superior Court of San Diego County/Oyler**

The petition is denied.

**D045835 Fraser III et al. v. Varon et al.**

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D045480 Baker, et al. v. Tramutola, et al.**

The judgment and postjudgment order are affirmed. The Tramutolas are entitled to costs on appeal. McConnell, P.J.; We Concur: Haller, J., O'Rourke, J.

**D047210 Citizens for Better Rancho Santa Fe Schools et al. v. Rancho Santa Fe School District Board of Trustees.**

The petition for writ of Supersedeas, response, and reply have been read and considered by Justices Huffman, Haller, and O'Rourke. The petition is granted and the purchase of the Bishops' property by the School District is stayed pending the disposition of the appeal in this matter.

**D047072 Marasigan v. Superior Court of San Diego County/Copeland**

The petition is dismissed.

**D044950 People v. Walton**

The judgment is modified to stay the sentence on burglary (count 2) pursuant to section 654. The superior court is directed to amend the abstract of judgment accordingly and to forward an amended abstract to the Department of Corrections. In all other aspects the judgment is affirmed. Huffman, Acting P. J.; We Concur: Nares, J., Aaron, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 1, 2005

**D047184 Charles H. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Charles H. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D046991 Erberto V. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 2, 2005

**D046658        People v. Rosadillo**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 33(c)(5) and 17. The appeal is dismissed.

**D045500        People v. Velasquez**

The judgment is affirmed. Irion, J.; We Concur: McConnell, P.J., Haller, J.

**D046343        In re D.S. et al., Juveniles**

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Nares, J.

**D047372        People v. Davenport**

The petition is denied.

**D045004        People v. Jones**

The judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D047411        People v. Gray**

The denial of a petition for writ of habeas corpus is not appealable. The appeal is dismissed.

**D047163        Shea Homes Inc., et al. v. Superior Court of San Diego County/Stemley et al.**

The petition is denied.

**D043343        Estate of Gigena, Deceased**

The judgment and order are reversed for further proceedings consistent with the views herein expressed, relating to (1) the erroneous and excessive surcharge of rent upon objectors, with directions to the trial court to recalculate the assets of the trust estate and amend the judgment and distribution order, together with interest, specifically with respect to the enforcement of the June 2001 rent order only, for the relevant June 2001 through February 2002 time period and also considering the time period while Milliron served as predecessor trustee; and (2) the erroneous 50 percent attorney fee award in favor of George against Milliron. In all other respects, the judgment and order are affirmed. Each party is to bear its own costs on appeal. Huffman, Acting P.J.; We Concur: Nares, J., Aaron, J.

**D046129        People v. Otis**

The judgment is affirmed. McDonald, Acting, P.J.; We Concur: McIntyre, J., Aaron, J.

**D046873        Christine S. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. Huffman, Acting P.J.; We Concur: Nares, J., Aaron, J.

**D047196        In re King on Habeas Corpus**

The petition is denied.

**D047298        In re the Conservatorship of Winter.**

The application for permission to appeal pursuant to Code of Civil Proc., section 391.7, subd. (b) is denied. The appeal filed on October 3, 2005 is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 3, 2005

**D046090        In re John Edward M., a Juvenile**

The order committing John to CYA is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Haller, J.

**D047437        Bealer v. Superior Court of San Diego County/People**

The petition is denied.

**D045509        F. v. S.**

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., Nares, J.

**D044896        ASP Properties Group v. Fard, Inc.**

The opinion filed October 5, 2005, is ordered certified for publication.

**D047393        People v. Hoyne**

The petition is denied.

**D046046        People v. McChristion**

The judgment is modified by striking the conviction of possessing methamphetamine (Health & Saf. Code, section 11377, subd. (a))(count three). As so modified, the judgment is affirmed. The trial court is directed to correct its sentencing minute order to conform to the probation order in the clerk's transcript on appeal, as outlined in footnote one of this opinion. Huffman, Acting P.J.; We Concur: Nares, J., Aaron, J.

**D047213        Monique W. et al., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorneys for petitioners Monique W. and Raphael S. have notified the court on behalf of the petitioners that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D047160        Jeffrey S. et al., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is dismissed.

**D047228        Moriah V. et al., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorneys for petitioners Moriah V. and William S. have notified the court on behalf of the petitioners that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case is dismissed.

**D046861        Lair et al. v. EV Global Motors Company et al.**

Upon written request filed by appellant, the appeal is dismissed and remittitur is ordered to issue immediately.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 3, 2005 (Continued)

**D046285          Carpenter et al. v. County of San Diego et al.**

**D046765          Carpenter et al. v. County of San Diego et al.**

Upon written request filed by all appellants, the appeals are dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
November 4, 2005

**D044616        Alpha Mechanical, Heating & Air Conditioning, Inc. v. Travelers Casualty & Surety Company of America**

The judgment is modified to strike the award of \$70,268.04 in penalty interest under Business and Professions Code section 7108.5 and Civil Code section 3260. As modified, the judgment is affirmed. The parties shall bear their own costs on appeal. CERTIFIED FOR PUBLICATION. O'Rourke, J.; We Concur: Nares, Acting P.J., McIntyre, J.

**D044273        Sheppard, Mullin, Richter & Hampton v. Donegan**

The petition for rehearing is denied. The motion to take evidence is also denied.

**D045481        Black Historical Society v. City of San Diego et al.**

The judgment is affirmed. The respondents are awarded costs on appeal. McConnell, P.J.; We Concur: Benke, J., O'Rourke, J.

**D041819        People v. Butler**

The conviction on count 1 for conspiracy to commit kidnapping for robbery is reversed, and we remand the matter to the trial court for resentencing based on the reversal. In all other aspects the judgment is affirmed. McConnell, P.J.; We Concur: Haller, J., McDonald, J.

**D045797        People v. Aaron**

The judgment is affirmed. McIntyre, J.; We Concur: Haller, Acting P.J., McDonald, J.

**D045315        People v. Poynter**

The judgment is affirmed. McConnell, P.J.; We Concur: McIntyre, J., Aaron, J.

**D047424        In re Gabriela S. on Habeas Corpus**

The petition is denied.